

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

CLYDE D. MCCRAY, #299511,

Petitioner,

v.

CASE NO. 2:23-CV-10546
HON. NANCY G. EDMUNDS

FREDEANE ARTIS,

Respondent.

**OPINION & ORDER DENYING THE APPLICATION TO PROCEED
IN FORMA PAUPERIS, DISMISSING THE PETITION FOR A WRIT OF
HABEAS CORPUS, & DENYING A CERTIFICATE OF APPEALABILITY**

Michigan prisoner Clyde D. McCray (Petitioner") submitted a pro se petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 and an application to proceed in forma pauperis. Petitioner's certificate of prisoner institutional/trust fund account activity states that he had a current spendable account balance of \$551.35 in his prison account as of March 1, 2023 when an administrative officer of the Michigan Department of Corrections certified his financial statement. ECF No. 2. The Court concludes from the financial data that Petitioner has not established indigence and that he can pay the \$5.00 filing fee for this action. Accordingly, the Court **DENIES** the application to proceed in forma pauperis and **DISMISSES WITHOUT PREJUDICE** the petition for a writ of habeas corpus. The Court is required to dismiss the case because the allegation

of poverty is untrue. 28 U.S.C. § 1915(e)(2)(A). Petitioner may submit a new habeas petition with payment of the filing fee in a new case.¹ This case will not be reopened.

Before Petitioner may appeal this decision, a certificate of appealability must issue. 28 U.S.C. § 2253(c)(1)(a); Fed. R. App. P. 22(b). A certificate of appealability may issue only if the petitioner makes “a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2). When a court denies relief on the merits, the substantial showing threshold is met if the petitioner demonstrates that reasonable jurists would find the court’s assessment of the constitutional claim debatable or wrong. *Slack v. McDaniel*, 529 U.S. 473, 484-85 (2000). When a court denies relief on procedural grounds, a certificate of appealability should issue if it is shown that jurists of reason would find it debatable whether the petitioner states a valid claim of the denial of a constitutional right and that jurists of reason would find it debatable whether the court was correct in its procedural ruling. *Id.* Jurists of reason would not find the Court’s procedural ruling debatable. Accordingly, the Court **DENIES** a certificate of appealability. This case is closed.

IT IS SO ORDERED.

s/ Nancy G. Edmunds

NANCY G. EDMUNDS
UNITED STATES DISTRICT JUDGE

Dated: March 13, 2023

¹The Court is aware that Petitioner has submitted a lengthy habeas petition and supporting documents in this case. If he institutes a new habeas action with payment of the filing fee, he can ask that the previously submitted materials be electronically refiled in the new case without filing additional paper copies.